

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

NOVARTIS PHARMACEUTICALS  
CORPORATION

Plaintiff,

v.

APOTEX INC., et al,

Defendants.

CONS. CIVIL ACTION NO. 18-1043-KAJ

**[PROPOSED] FINAL JUDGMENT AND ORDER OF INJUNCTION**

WHEREAS, on July 16, 2018, Plaintiff Novartis Pharmaceuticals Corporation (“Plaintiff”) brought the above action (the “Action”) against Defendants Apotex, Inc. and Apotex Corp. (collectively, “Apotex” or “Defendant”) (Plaintiff and Defendant are each referred to herein as a “Party” or collectively as the “Parties”), alleging infringement of U.S. Patent No. 9,187,405 (“the ‘405 patent”) based on Apotex’s submission of ANDA No. 207993 for fingolimod 0.5 mg capsules;

WHEREAS, on February 7, 2020, Plaintiff and Defendant agreed to terms and conditions representing a negotiated settlement of this action and have set forth those terms and conditions in a confidential Settlement and License Agreement (the “Settlement Agreement”).

WHEREAS, for the purposes of this action only, Defendant does not dispute the validity and enforceability of the ‘405 Patent; and

WHEREAS, on September 11, 2020 (D.I. 780), the Court entered its final judgment in this Action;

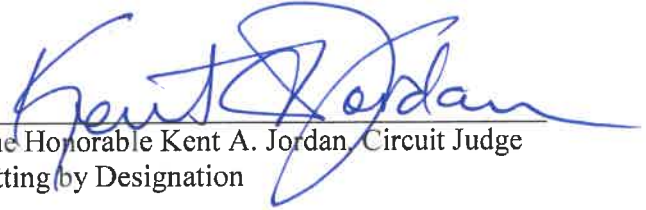
IT IS ORDERED AND ADJUDGED that:

1. By virtue of the license granted by Novartis to Apotex as part of the Settlement Agreement, judgment is entered that there no longer exists a cause of action for infringement of the '405 Patent by the accused product (the subject of Abbreviated New Drug Application No. 207993).
2. This Final Judgment and Order of Injunction constitutes a "consent decree" pursuant to 21 U.S.C. § 355(j)(5)(B)(iii)(I)(bb), such that Final Approval of Apotex's Abbreviated New Drug Application No. 207993 under 21 U.S.C. § 355(j)(2)(A)(vii)(IV) may be granted on the date that this Final Judgment and Order of Injunction is entered.
3. Pursuant to the terms of the Settlement Agreement, all claims and counterclaims by Apotex or against Apotex are dismissed WITH PREJUDICE.
4. This Court retains jurisdiction over all disputes arising out of the Settlement Agreement.
5. Except as authorized under the Settlement Agreement, Apotex, and its affiliates, are hereby enjoined from directly or indirectly passing title or delivering to customers in the United States the accused product (the subject of Abbreviated New Drug Application No. 207993) prior to the expiration of the '405 patent.
6. The injunction described in the foregoing paragraph shall take effect immediately upon entry of this Final Judgment and Order of Injunction.
7. During the term of the injunction, the Court retains jurisdiction over this action, including implementation of, or disputes arising out of, this Final Judgment and Order of Injunction.
8. Each Party shall each bear its and their own costs and attorney fees.

9. Novartis and Apotex each expressly waive any right to appeal or otherwise move for relief from this Final Judgment and Order of Injunction.

Dated: \_\_\_\_\_

12/2/20

  
The Honorable Kent A. Jordan, Circuit Judge  
Sitting by Designation